



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

**Requestor Name**

ANTHONY TRAN MD

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

December 31, 2013

**Respondent Name**

TEXAS MUTUAL INSURANCE COMPANY

**MFDR Tracking Number**

M4-14-1223-01

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "We aren't an in the network. However, the patient was referred to us by an in network provider for an emergency... Texas Mutual paid all claim but these two, stating that were are out of network."

**Amount in Dispute:** \$1,072.00

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Texas Mutual claim [claim number] is in the Texas Star Network. (Attachment)... Texas Mutual Paid the treatment provided on 5/16/13, 5/24/13, and 5/31/13. However, by 6/10/13 Texas Mutual determined Dr. Tran was not in the Texas Star Network and did not have an out of network authorization consistent with section 1305.103(e) of the insurance code to treat the claimant. For this reason Texas Mutual denied payment for the two dates above. Because this fee reimbursement dispute involves a Network requirement under the Insurance Code and not the Labor Code, Texas Mutual argues DWC MDR has no jurisdiction in this matter."

**Response Submitted by:** Texas Mutual Insurance Company

### **DISPUTED SERVICES SUMMARY**

Dates of Service	Disputed Services	Amount In Dispute	Amount Ordered
June 24, 2013	15004, 10140, A4649, 99080-73, J1100 and J2001	\$1,072.00	\$0.00

### **BACKGROUND**

1. 28 Texas Administrative Code §133.307, 37 TexReg 3833, applicable to medical fee disputes filed on or after June 1, 2012, sets out the procedures for resolving medical fee disputes.
2. Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks.

### **FINDINGS AND DECISION**

**Issue**

1. Did the requestor meet the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305 to file for medical fee dispute resolution?
2. Is this dispute eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307?

## **Findings**

Anthony Tran, MD, PA filed this medical fee dispute to the Division asking for resolution pursuant to 28 Texas Administrative Code (TAC) §133.307 titled *MDR of Fee Disputes*. The authority of the Division of Workers' Compensation to apply Texas Labor Code statutes and rules, including 28 TAC §133.307, is limited to the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305. In particular, TIC §1305.153 (c) provides that "Out-of-network providers who provide care as described by Section 1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation." Anthony Tran, MD, PA therefore has the burden to prove that the condition(s) outlined in Texas Insurance Code §1305.006 were met in order to be eligible for dispute resolution of the facility services provided. The following are the Division's findings.

1. Texas Insurance Code Section 1305.006 requires, in pertinent part, that "(3) health care provided by an out-of-network provider pursuant to a referral from the injured employee's treating doctor that has been approved by the network pursuant to Section 1305.103."

Texas Insurance Code Section 1305.103 requires, in pertinent part, that "(e) A treating doctor shall provide health care to the employee for the employee's compensable injury and shall make referrals to other network providers, or request referrals to out-of-network providers if medically necessary services are not available within the network. Referrals to out-of-network providers must be approved by the network."

The requestor, Anthony Tran, MD, PA, has the burden to prove that it obtained the appropriate approved referral from Texas Star Network for the out-of-network care it provided. The requestor, Anthony Tran, MD, PA, in its request for reconsideration dated December 26, 2013 states "We aren't an in the network. However, the patient was referred to us by an in network provider for an emergency... Texas mutual paid all claim but these two, stating that were are out of network." Review of the submitted documentation does not support that the requestor obtained an approved out of network referral from the treating doctors and approved by the Texas Star Network. As a result, the requestor failed to meet the requirements of Texas Insurance Code Section 1305.103(e).

2. The requestor Anthony Tran, MD, PA failed to prove in this case that that the requirements of Texas Insurance Code Section 1305.006(3) were met. Consequently, the services in dispute are not eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307.

## ***DECISION***

Based upon the documentation submitted by the parties, the Division has determined that this dispute is not eligible for resolution pursuant to 28 Texas Administrative Code §133.307.

## **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

October 30, 2014  
\_\_\_\_\_  
Date

## ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim. The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §141.1(d).**